

**THE RENT RESTRICTION (AMENDMENT)
ACT, 1971**
No. 1 of 1971

Date of Assent: 29th January, 1971

Date of Commencement: 29th January, 1971

**An Act of Parliament to amend the Rent Restriction
Act**

ENACTED by the Parliament of Kenya, as follows:—

1. This Act may be cited as the Rent Restriction (Amendment) Act, 1971.

Short title.

2. The Rent Restriction Act (hereinafter referred to as the principal Act) is hereby amended by the repeal of section 2.

Repeal of
section 2
of Cap. 296.

3. Section 4 of the principal Act is hereby amended—
(a) in subsection (1)—

Amendment of
section 4 of
Cap. 296.

(i) by the insertion after the definition of “premises” of the following—

“recoverable rent” in relation to any dwelling-house, means the standard rent thereof together with any permitted increase duly made under this Act;

(ii) by the deletion of the definitions of “tenement house” and “tribunal” and the insertion in place thereof of the following—

“tribunal” means a Rent Tribunal established under section 4A of this Act and, in relation to any particular premises, means the Rent Tribunal having jurisdiction in the area wherein such premises are situate;

(iii) by the deletion of the definition of “standard rent” and the substitution therefor of the following—

“standard rent” means—

(a) in relation to an unfurnished dwelling-house—

(i) if on the 1st January, 1965, it was let unfurnished, the rent at which it was lawfully so let, the landlord paying all outgoings;

(ii) if on the 1st January, 1965, it was let furnished, the rent at which it was lawfully so let, less a sum at a monthly rate not exceeding one per cent of the value (as determined by the tribunal) of the furniture, excluding any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, and a sum not exceeding two per cent of the value (as determined by the tribunal) of any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, in respect of the furniture which was in the dwelling-house on the 1st January, 1965, the landlord paying all outgoings;

(iii) if on the 1st January, 1965, it was not let, a rent to be assessed by the tribunal at a monthly rate of one and one-quarter per cent of the cost of construction and the market value of the land, the landlord paying all outgoings;

(b) in relation to a furnished dwelling-house—

(i) if on the 1st January, 1965, it was let furnished, the rent at which it was lawfully so let, the landlord paying all outgoings;

(ii) if on the 1st January, 1965, it was let unfurnished the rent at which it was lawfully so let plus a sum at a monthly rate not exceeding one per cent of the value (as determined by the tribunal) of the furniture, excluding any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, and a sum not exceeding two per cent of the value (as determined by the tribunal) of any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, in respect of the furniture of the dwelling-house, the landlord paying all outgoings;

- (iii) if on the 1st January, 1965, it was not let, the standard rent which would be applicable if it were unfurnished, plus a sum at a monthly rate not exceeding one per cent of the value (as determined by the tribunal) of the furniture, excluding any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, and a sum not exceeding two per cent of the value (as determined by the tribunal) of any soft furnishings, linen, cutlery, kitchen utensils, glassware and crockery, the landlord paying all outgoings;
- (b) in subsection (2), by the deletion of paragraph (a) and the substitution therefor of the following—
- (a) where the tribunal is satisfied that the standard rent would yield an uneconomic return to the landlord because of—
- (i) the temporary nature of the construction of the dwelling-house; or
 - (ii) the short duration of the lease or licence under which the land is held; or
 - (iii) the fact that the dwelling-house can only be let for a particular period in each year; or
 - (iv) the fact it does not yield a fair capital return on the cost of construction and market value of the land as at 1st January, 1965, or that, in the absence of any indication that the purchase price paid by the landlord was excessive, it does not yield a fair capital return on that purchase price,
- the tribunal may determine the standard rent to be such amount as, in all the circumstances of the case, it considers fair; and.

4. Section 4A of the principal Act is hereby amended by the deletion of subsections (2) and (3) and the substitution therefor of the following—

(2) The Minister shall, by notice in the Gazette, appoint a chairman of each tribunal and may similarly

Amendment of
section 4A of
Cap. 296.

appoint, subject to such conditions and limitations as he may think fit, a deputy chairman of any tribunal.

(3) No person shall be qualified for appointment as chairman or deputy chairman of a tribunal unless he holds, and has held for a total period of not less than five years, one or other of the qualifications specified in paragraphs (a), (b), (c) and (d) of subsection (1) of section 12 of the Advocates Act.

(4) The Minister shall, by notice in the Gazette, appoint a panel of members, consisting of such number of persons as he may think fit, for each tribunal.

(5) For the purpose of exercising any of its functions under this Act, a tribunal shall be presided over by the chairman or deputy chairman of the tribunal and shall consist of the person so presiding and two members selected by the Permanent Secretary to the Ministry responsible for the administration of this Act from the panel of members appointed under subsection (4) of this section:

Provided that, so long as a tribunal is composed of a chairman or deputy chairman and two members of such panel, no question shall be raised in any proceedings, whether under this Act or otherwise, as to the validity or method of the selection of such members or either of them.

(6) In respect of any of the functions exercised by a tribunal whilst presided over by a deputy chairman, any references in this Act to the chairman of a tribunal shall be deemed to include such deputy chairman.

(7) Any matter considered by a tribunal shall be decided by the votes of the majority of the persons constituting the tribunal and voting, and the person presiding shall have a casting as well as a deliberative vote:

Provided that any point of law arising in any proceedings before a tribunal shall be reserved to and pronounced upon by the person presiding exclusively.

(8) Notwithstanding any other provision of this Act, the chairman of a tribunal acting alone shall have jurisdiction to deal with all interlocutory applications which are not of such a nature as to effect a decision in any matter which is in issue between parties.

(9) Where the chairman of a tribunal is of opinion that a question arising in any proceedings before the tribunal involves a substantial question of law, he may, and shall if any party to the proceedings so requests, adjourn the proceedings and refer that question of law to the High Court for a decision thereon, and, upon such decision being given, the tribunal shall dispose of the proceedings in accordance therewith.

5. Subsection (1) of section 5 of the principal Act is hereby amended—

Amendment of
section 5 of
Cap. 296.

- (a) in paragraph (e), by the deletion of the words “where any tenement house is” and the substitution therefor of the words “where any premises are”;
- (b) in paragraph (h), by the insertion immediately after the words “such repairs” of the words “within such time as the tribunal may stipulate, and, if the landlord fails to comply with the order, and upon application by notice of motion by the tenant, to authorize the tenant to execute the repairs and to deduct the cost thereof from the rent”;

(c) to insert the following new paragraph—

- (k) on the application by a tenant by notice of motion, to reduce the standard or recoverable rent of premises where the tribunal is satisfied that the landlord has failed to carry out such repairs to, or maintenance of, the premises as he has a duty to carry out either by agreement or under this Act.

6. Section 7 of the principal Act is hereby amended by the deletion of subsection (2).

Amendment of
section 7 of
Cap. 296.

7. Subsection (2) of section 8 of the principal Act is hereby amended by the deletion of the words “a subordinate court of the first class held by a Senior Resident Magistrate” and the substitution therefor of the words “the High Court”.

Amendment of
section 8 of
Cap. 296.

8. Subsection (1) of section 12 of the principal Act is hereby amended by the insertion after the words “notice in writing to the tenant” of the words “a copy whereof shall be delivered to the tribunal”.

Amendment of
section 12 of
Cap. 296.

Amendment of
section 15 of
Cap. 296.

9. Section 15 of the principal Act is hereby amended—
(a) in subsection (1), by the deletion of paragraph (m) and the substitution therefor of the following—

(m) the application for the recovery of possession of the premises is made by a person who, having been the tenant of the premises, has been unlawfully dispossessed thereof, and in any such case—
 (i) any tenant who, if the application is successful, is liable to be ejected from the premises shall be made a party to the proceedings; and
 (ii) where any such tenant is so ejected, the tribunal may order that the landlord pay to such tenant such sum by way of compensation as the tribunal thinks just in all the circumstances of the case;
 (iii) where any tenant has been lawfully dispossessed, and upon an application for recovery of possession, the tribunal may order that the landlord pay such tenant such sum by way of compensation as the tribunal thinks just in all the circumstances of the case.

(b) in subsection (4), by the deletion of the words “if such conditions are complied with, the tribunal may, if it thinks fit, discharge or rescind any such order” and the substitution therefor of the words “if the tribunal thinks fit—

(a) where such conditions are complied with, the tribunal may discharge or rescind the order; or
 (b) where such conditions are not complied with, the tribunal may, on application by notice of motion, make the order absolute.”

Amendment of
section 22 of
Cap. 296.

10. Subsection (1) of section 22 of the principal Act is hereby amended by the deletion of the words “may apply” and the substitution therefor of the words “shall apply”.

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11. Subsection (2) of section 23 of the principal Act is hereby amended by the deletion of the words "three hundred shillings or to imprisonment for a term not exceeding one month" and the substitution therefor of the words "six thousand shillings or to a term of imprisonment not exceeding six months".

Amendment of
section 23 of
Cap. 296.

12. Section 30 of the principal Act is hereby amended—

- (a) by the insertion after the words "landlord who" of the words "evicts any tenant without the authority of a tribunal or";
- (b) by the deletion of the words "two thousand" and the substitution therefor of the words "six thousand".

Amendment of
section 30 of
Cap. 296.

13. Subsection (1) of section 31A of the principal Act is hereby amended by the insertion immediately after the words "chairman of the tribunal" of the words "or by a public officer authorized by the Minister by notice in the Gazette to certify such copies".

Amendment of
section 31A of
Cap. 296.

14. Any appeal which immediately before the commencement of this Act is pending under section 8 (2) of the principal Act shall, after such commencement, be continued and completed in the High Court under that section as amended by this Act, and the High Court shall give such directions as may be necessary or desirable to facilitate such continuation and completion.

Transitional.